

**SEWER SERVICE AGREEMENT BY AND BETWEEN COUNTY
SERVICE AREA 70, IMPROVEMENT ZONE SP-2 (CSA 70 SP-2) AND
HESPERIA WATER DISTRICT ("DISTRICT") CONCERNING TR 13076, ALL
PHASES**

THIS AGREEMENT is made and entered into this ____ day of ____, 2004, by and between County Service Area 70, Improvement Zone SP-2, hereinafter referred to as CSA 70 SP-2, and the Hesperia Water District, on behalf of the City of Hesperia, a subsidiary district of the City, hereinafter referred to as DISTRICT.

WITNESSETH

A. Recitals.

(i) On June 8, 1987, CSA 70 SP-2 and District entered into an Agreement whereby sewer capacity for 275 equivalent dwelling units (EDU) was reserved to SP-2 at the upper reach of District's Maple/Mauna Loa system.

(ii) On April 14, 1992, CSA 70 SP-2 and District amended the 1987 Agreement to extend sewer service to the Southern California Edison Company ("Edison") and the Hesperia Recreation and Park District ("Park District"), including APN 0405-511-04 & 28 (1 EDU) and APN 0405-341-16 (19 EDU).

(iii) District has received a request from Frontier Homes to supply sewer service to 200 equivalent dwelling units specified herein from District's said Maple/Mauna Loa system via CSA 70 SP-2 on and off-site sewer facilities.

(iv) CSA 70 SP-2 is willing to allow Frontier Homes TR 13076, all phases, (hereinafter "TR 13076") to connect to CSA 70 SP-2 sewer facilities (on & off-site) on the terms and conditions stated herein.

B. Agreement.

NOW, THEREFORE, the parties hereto agree as follows:

1. District hereby agrees to provide to CSA 70 SP-2 sufficient capacity in amounts stated below at the upper reach of District's Maple/Mauna Loa system to allow TR 13076 to provide sewer service to the following facilities:

| <u>Facility</u> | <u>Location</u> | <u>Sewer Capacity Amount</u> |
|-----------------|-------------------|------------------------------|
| TR 13076-1 | Cedar & Escondido | 31 |
| TR 13076 -2 | Cedar & Escondido | 30 |
| TR 13076-3 | Cedar & Escondido | 20 |
| TR 13076-4 | Cedar & Escondido | 9 |
| TR 13076-5 | Cedar & Escondido | 27 |
| TR 13076-6 | Cedar & Escondido | 26 |
| TR 13076-7 | Cedar & Escondido | 31 |
| TR 13076-8 | Cedar & Escondido | 16 |
| TR 13076-9 | Cedar & Escondido | 10 |

The capacity provided for in Paragraph 1 shall be in addition to and not part of the capacity provided for in the prior agreements between the parties hereto specified in Recitals (i) and (ii) above.

2. In consideration of District's affording the capacity for the facility specified in Paragraph 1 hereof, CSA 70 SP-2 agrees that TR 13076 shall be allowed to connect to and utilize CSA 70 SP-2's on & off-site sewer facilities located adjacent to the above-mentioned TR 13076, provided that:
 - a. All of the CSA 70 SP-2 rules, regulations and ordinances applicable to the use of its sewer facilities as the same exist, or as they are amended from time to time, shall apply to the TR 13076, facilities upon connection to CSA 70 SP-2's system;
 - b. Frontier Homes shall pay all current and applicable fees to Victor Valley Wastewater Regional Authority (VWVRA) for treatment and disposal costs at the present rate of \$75.00 per equivalent dwelling unit, and at such rates as VWVRA may establish from time to time;
 - c. Frontier Homes shall pay all of CSA 70 SP-2's applicable permit, inspection and administration fees related to their respective connections to CSA 70 SP-2 sewer facilities. Said fees are currently set at \$219.00 for permit and inspection and \$45.00 for administration;

- d. Frontier Homes shall pay CSA 70 SP-2's fees for tapping into CSA 70 SP-2's main line and the applicable capacity/connection fee for use of said line(s); and
 - e. Frontier Homes shall bear all construction costs and engineering costs necessary to connect to CSA 70 SP-2's sewer system.
- 3. District agrees that in addition to affording capacity in its system in accordance with Paragraph 1 hereof in reference to the facility specified herein, District shall (a) bill for and collect all sewer user fees related to said facilities and remit to CSA 70 SP-2 the portions thereof payable to CSA 70 SP-2 and (b) maintain all collection lines for said facilities which connect to CSA 70 SP-2's sewer system.
- 4. CSA 70 SP-2 shall not have the right to transfer the capacity rights obtained under this Agreement.
- 5. CSA 70 SP-2 shall be responsible for the maintenance and operation of sewer facilities owned by CSA 70 SP-2. Likewise, District shall be responsible for maintenance and operation of sewer facilities owned by District.
- 6. This Agreement shall become effective upon approval by both parties.
- 7. (a). District agrees to indemnify, defend and hold harmless CSA 70 SP-2, the County of San Bernardino and their authorized agents, officers, volunteers and employees against any and all claims arising from District's acts, errors or omissions and for any costs or expenses incurred by CSA 70 SP-2 on account of any claim therefore.

(b). CSA 70 SP-2 agrees to indemnify, defend and hold harmless the District, and its authorized agents, officers, volunteers and employees against any and all claims arising from CSA 70 SP-2's acts, errors or omissions and for any costs or expenses incurred by District on account of any claim therefore.
- 8. CSA 70 SP-2 shall comply with all applicable sewer use ordinances and regulations of the District and VVWRA relating to its activities and rights under this Agreement, including, but not limited to, meeting all quality and other applicable standards.

9. Each party shall act in a responsible manner to fulfill its obligations as described herein. With respect to District's system and operations, District shall not be liable or responsible to CSA 70 SP-2 for system breakdowns, acts of God or other acts or occurrences beyond the reasonable control of District.
10. No amendment of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on either of the parties hereto.
11. District and CSA 70 SP-2 are entering into this Agreement in reliance on the validity of their respective rights and obligations described herein. If any provision of this Agreement is found to be invalid or unenforceable by final judgment of a court of competent jurisdiction, or if either party refuses to perform any obligation hereunder by claiming invalidity or unenforceability of same, then the adversely affected party shall thereupon have the right to terminate this Agreement as of the date of said refusal to perform.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date stated below.

HESPERIA WATER DISTRICT

COUNTY SERVICE AREA 70
IMPROVEMENT ZONE SP-2

City Manager

Chairman, Board of Supervisors, acting
in its capacity as the governing body of
CSA 70 SP-2

Secretary

Clerk of the Board of Supervisors